

Appeal Decision

Site visit made on 26 January 2016

by Elizabeth Pleasant BSc(Hons)DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 March 2016

Appeal Ref: APP/K2420/W/15/3136005

Unit A, Dodwell Bridge Industrial Estate, Dodwells Road, Hinckley, Leicestershire LE10 3BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Plesvale Ltd against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 14/00924/FUL, dated 17 September 2014, was refused by notice dated 10 April 2015.
 - The development proposed is a freestanding two storey restaurant with associated drive-thru, car parking and landscaping and the installation of 2no customer order display and canopy.
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Decision

1. The appeal is allowed and planning permission is granted for a freestanding two storey restaurant with associated drive-thru, car parking and landscaping and the installation of 2no customer order display and canopy at Unit A, Dodwell Bridge Industrial Estate, Dodwells Road, Hinckley, Leicestershire LE10 3BZ in accordance with the terms of the application, Ref 14/00924/FUL, dated 17 September 2014, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The Council's Decision identifies the neighbouring employment premises as Unit A. It is clear from the application forms and neighbour representations that the appeal site is Unit A and that the neighbouring employment premises of concern are Unit B. I have therefore referred to the neighbouring premises as Unit B in my decision.

Main Issues

3. The main issues in this case are the effect on:
 - Highway safety, with particular regard to congestion around the junction of the A5 and A47; and
 - The operation of the neighbouring employment premises (Unit B), with particular regard to security, parking and service provision.
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Reasons

Highway safety

4. The site takes access off Dodwells Road (A47) just to the north of its junction with the A5 Watling Street. The junction of these roads is serviced by a signalised roundabout (Dodwells Island) which has recently been upgraded and improved by Highways England (HE) as part of a Pinch Point Plus scheme to improve the operation of the local highway network.
5. The site access is currently used exclusively by the occupiers of the neighbouring Unit B and evidence has been submitted by PTB Transport Planning Ltd on their behalf.
6. Although there is some dispute over the nature of the traffic on Dodwells Road, it is accepted by all parties that vehicles travelling south towards Dodwells Island during peak hours, consistently queue past the site access. For this reason the Local Highway Authority has requested that the proposed development include local carriageway widening to enable a 'ghost island' right turning lane to be provided. These mitigation measures, together with central pedestrian refuge islands in Dodwells Road, could be secured through a condition. The proposed development would generate additional traffic onto the local highway network. On the basis of the findings of the study undertaken by the appellant, the majority of this traffic would be either 'passing-by' or undertaking a minor alteration to their route, and would not be new traffic to the locality. I have taken into consideration the effect of the increase in traffic on the local highway network and specifically on queues leading onto Dodwells Island and the functioning of this junction. In doing so I have had regard to representations from interested parties which dispute the new traffic predictions as a result of the proposal and concerns that future traffic growth in the area has not been considered.
7. However, the Transport Assessment (TA) and subsequent Transport Statement (TS) demonstrate that the proposal would not have an adverse effect on the function of Dodwells Island which is forecast to operate within capacity and with minimal additional queues up to 2018. The TS acknowledges that there would be a slight increase in traffic queuing towards the Island although given the operation of the now signalised junction, this would be minimal. Moreover, the increase in traffic would not compromise the safe functioning of the junction. This view is supported by the Local Highway Authority which considers that a 'ghost island' right turning lane would mitigate any impact and has not raised any objections to the proposal, subject to such mitigation. Highways England has not objected to the proposal.
8. I have also considered the impact of the proposed development on the operation of the site junction with Dodwells Road. It is accepted by all parties that this junction has adequate visibility and at the moment operates well below its capacity. The appeal proposal would substantially increase the amount of traffic using this junction based on its current use levels and as such there would be some impact on its existing users. Based on the figures provided on behalf of the occupiers of Unit B, vehicles using this junction would experience just over a 2 minute delay at peak time. Therefore, even though this delay may increase marginally with future traffic growth and taking into account the alterations to internal site arrangements proposed for Unit B, I do

not consider that this would have a significant effect on the use of the junction or the flow of traffic.

9. It is accepted that vehicles turning right out of the site access would often have to turn into queuing traffic. However, Dodwells Island is now signalised with the flow of traffic regulated and traffic is likely to be rarely stationary for more than a couple of minutes at this point. Furthermore the traffic is generally moving slowly in the vicinity of the site, including that traffic travelling in a northerly direction along Dodwells Road having just exited the Island. Having had regard to the accident data supplied and acknowledging that there would be some additional queuing both on the adjoining highway network and at the site junction, I am satisfied that the proposal would provide a safe and suitable access to the site for both vehicles and pedestrians and that the impact on the local highway network would not be severe.
10. I conclude that the appeal proposal would not have a significant effect on highway safety, with particular regard to congestion around the junction of the A5 and A47. I therefore find no conflict with Policy T5 of the Hinckley and Bosworth Local Plan, 2001 (Local Plan) which seeks to ensure that new development does not prejudice a safe and efficient highway nor conflict with paragraph 32 of the National Planning Policy Framework (the Framework) which advises that a safe and suitable means of access should be achieved for all people and that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Operation of the neighbouring employment premises (Unit B).

11. The appeal proposal would alter the internal site access, parking and service arrangements for the adjacent employment premises (Unit B). It would also require the existing perimeter fence and gates to be altered to allow 24 hour access to the proposed development.
12. The appeal site is currently vacant and the occupiers of Unit B have therefore been able to utilise the site in an unrestricted manner whilst it has remained an open hard surfaced area. The appeal site is however an allocated employment site. It seems to me that whatever its future use may be, it is likely that the occupiers of Unit B would need to make some changes to their existing parking/servicing arrangements to accommodate the new use.
13. The appellant has provided a potential internal site layout for this Unit and I have had regard to the comments of the current occupiers on this drawing. However, I am satisfied that Unit B would retain sufficient space to provide on site parking and manoeuvring space for its existing and future operators.
14. It would be necessary for the existing gates and security fencing to be removed from their current location at the site entrance. I recognise that this is a concern for the current occupiers of Unit B, however I see no reason why, if deemed necessary, fencing could not be realigned around the new perimeter proposed for Unit B. Furthermore, the site security measures proposed by the appellant, including CCTV and lighting, together with its proposed 24 hour operation, would provide some surveillance of the premises during the evening/night time and weekends when this business is currently closed. There is no evidence that the proposal would give rise to an increase in anti-social behaviour or crime in the area.

15. I conclude that the proposed development would not have a significant or harmful effect on the operation of the neighbouring employment premises (Unit B), with particular regard to security, parking and service provision. There is therefore no conflict with Policy BE1(c) of the Local Plan which seeks to ensure that new development has regard to the safety and security of both individuals and property.

Other Matters

16. I have had regard to concerns that the site is not sequentially preferable or sustainably located, and that the proposal does not make adequate provision for pedestrians and could cause danger to cyclists. I note that the Council accepts that it has been demonstrated that no sequentially preferable sites in town centres are available, that the loss of land identified for employment purposes is justified in this case and that in principle the proposed use in such a location is appropriate and I have no substantive evidence before me to conclude otherwise. The proposed development would include dedicated pedestrian links to the footways on the adjacent highways and pedestrian refuges could be provided within the carriageway on Dodwells Road where there is also a cycleway. The Local Highway Authority has not raised any objections to the proposals on these grounds and from my inspection of the site I concur with their views.

Conditions

17. The Council has suggested a number of conditions which I have considered against the advice in the Framework and Planning Practice Guidance. As a result I have amended some of them for clarity and consistency.
18. A condition specifying the approved plans is required as this provides certainty.
19. Conditions are imposed relating to details of off-site highway works and restrictions on any gates, barriers, etc to be provided in the interests of highway safety. A condition relating to cycle parking is also necessary to encourage a sustainable transport choice. I have imposed a condition requiring a programme of archaeological work to safeguard any archaeological remains and conditions in relation to landscaping are necessary to protect the character and appearance of the area.
20. A condition is required relating to details of lighting to protect bat foraging habitats and a condition relating to the control of emissions of fumes is necessary to protect the living and working conditions in the locality. Conditions have been imposed relating to drainage to prevent pollution of the water environment and any increase in risk of flooding.

Conclusion

21. For the above reasons and taking into account all other matters raised, I conclude that the appeal should be allowed.

Elizabeth Pleasant

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details: Site Location Plan H8443-01 Rev B; Block Plan H8443-02 Rev B; Proposed Building Plan 8443-07; Proposed Elevations H8443-04 Rev A; Proposed Elevations H8443-05 Rev A; Site Layout Drawing H8443-03 Rev C; Site Finishes Drawing H8443-06 Rev D; Flood Risk Assessment Rev A (ref: KRP/LEM/37319-001. dated July 2014).
- 3) No development shall commence until details of the design for the off-site highway works for the staggered 'ghost island right turn lane' junction (including the access to the Teal Business Centre) and forward visibility on the A47 Dodwells Road have been submitted to and approved in writing by the Local Planning Authority. The off-site highway works shall be completed in full accordance with the approved details prior to the development being first brought into use.
- 4) No development shall take place until details of the cycle parking provision have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be provided in full accordance with the approved details prior to the development being first brought into use and shall be retained thereafter.
- 5) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 6) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include: hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); planting plans; written specifications; schedule of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation programme.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) No development shall take place until details of any external lighting have been submitted to and approved in writing by the Local Planning Authority. The details shall include a layout plan with beam orientation, schedule of equipment proposed (including luminaire type, mounting

height, aiming angles and luminaire profiles). Development shall be carried out in accordance with the approved details.

- 9) Before the use hereby permitted begins, a scheme for the installation of equipment to control the emission of fumes and smell from the premises shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.
- 10) No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrological context of the development, has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include:

- a) limiting surface water run-off generated by all rainfall events up to the 100 year plus 20% (for climate change) critical rain storm so that it will not exceed the run-off from the existing site and not increase the risk of flooding off site;
- b) provision of sufficient surface water run-off attenuation storage to accommodate the difference between the existing allowable discharge rate and all rainfall events up to the 100 year plus 20% (for climate change) critical rain storm;
- c) details of how the scheme shall be maintained and managed after completion.

The scheme shall be fully implemented in accordance with the approved details before the development is first brought into use.

- 11) No development shall take place until a scheme to install oil and petrol separators has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented in accordance with the approved details before the development is first brought into use.
- 12) If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected, they shall be set a minimum distance of 15 metres behind the highway boundary and shall be hung so as to open inwards only.